

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

GERALD LEE

PLAINTIFF

v.

CIVIL ACTION NO. 3:17-CV-38-RP

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

**ORDER GRANTING PAYMENT OF
ATTORNEY'S FEES AND EXPENSES**

Plaintiff seeks an award of attorney's fees of \$5,726.70 paid pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. Section 2412, and the travel expense of \$50.29. Docket 20. The Commissioner does not object to an award of EAJA attorney's fees in this case, but does object to compensation for time spent seeking extensions of time for filing plaintiff's brief. Docket 21.

Plaintiff seeks \$113.40 for 0.6 hours counsel spent drafting two motions for extension of time and for reviewing the Court's orders on said motions. The Commissioner objects to this request and argues that it would reward plaintiff's counsel for not submitting timely pleadings.

Motions for extensions of time are regularly requested and granted in Social Security cases. *Stark v. Comm'r of Soc. Sec.*, 2015 WL 3795985, at *2 (N.D. Miss. June 17, 2015). Here, plaintiff's counsel requested two extensions of time, to which the government voiced no objections. Docket 13, 15. In these motions, plaintiff's counsel stated that he is in court nearly every day and averages six Social Security Hearings per week across Mississippi and Tennessee. *Id.*

In *Stark*, the Court awarded attorney's fees under similar circumstances where "counsel did not excessively or frivolously seek extensions." *Stark*, 2015 WL 3795985, at *2. Similarly,

in *McClung v. Commissioner of Social Security Administration*, the Court awarded fees for time spent preparing motions to extend time finding such a request “reasonable” in light of circumstances under which “counsel is one of a relatively small number of attorneys in the Eastern District of Texas whose practice largely centers around Social Security Appeals, and [...] she maintains a high caseload.” *McClung v. Comm’r, Soc. Sec. Admin.*, 2015 WL 2197963, at *3 (E.D. Tex. May 11, 2015).

The court has reviewed the docket and concludes that plaintiff’s counsel did not excessively or frivolously seek extensions of time and when he did seek extensions of time, defendant had no objection to the requested extensions. Accordingly, plaintiff’s request for fees will be GRANTED. It is

ORDERED

that the defendant pay the plaintiff \$5,726.70 in attorney’s fees and \$50.29 in litigation expenses and mail the award to plaintiff’s attorney.

This, the 14th day of November, 2017.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE